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*(Please see signature page for complete list of parties represented.)*

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ANDREA ESQUIVEL, A minor, by and through her Guardian  
 Ad Litem, GINA FLAMENCO, an adult; BRENDON RYAN  
 VILLANUEVA, a minor, by and through his Guardian Ad  
 Litem, EVELYN VILLANUEVA, an adult; KEVIN MARK  
 VILLANUEVA, a minor, by and through his Guardian Ad  
 Litem, EVELYN VILLANUEVA, an adult; MALCOLM  
 WRIGHT, a minor, by and through his Guardian Ad Litem,  
 BENNY WRIGHT, an adult,

Petitioners,

vs.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT, SAN  
 FRANCISCO BOARD OF EDUCATION, CITY AND  
 COUNTY OF SAN FRANCISCO, ERIC MAR, individually  
 and as a Member of the School Board, MARK SANCHEZ,  
 individually and as a Member of the School Board, JANE KIM,  
 individually and as a Member of the School Board,  
 KIM-SHREE MAUFAS, individually and as a Member of the  
 School Board, NORMAN YEE, individually and as a Member  
 of the School Board, JILL WYNNS, individually and as a  
 Member of the School Board, HYDRA MENDOZA,  
 individually and as a Member of the School Board, CARLOS  
 GARCIA, individually and as the Superintendent of the San  
 Francisco School District, DAN KELLY, individually and as a  
 former Member of the School Board, SARA LIPSON,  
 individually and as a former Member of the School Board,

Respondents.

No.: CV 07 5709 MHP

**JOINT DISCOVERY REPORT  
 PURSUANT TO FED. R. CIV.  
 P. 26(f)**

Case Management Conference:

Date: February 25, 2008

Time: 4:00 p.m.

Crtrm.: 15

(The Honorable Marilyn Hall Patel)

1 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, the parties to this action  
2 submit this report setting forth a discovery plan. The parties have met and conferred in compliance  
3 with Rule 26(f).

4 **A. Initial Disclosures**

5 The parties will be serving their initial disclosures on the day this report is due or  
6 shortly thereafter. The parties have agreed not to produce actual documents at this time but rather  
7 identify any relevant documents by categories. The parties have agreed to stay all discovery until the  
8 Court rules on defendants' motion to dismiss. The parties have further agreed that if the Court denies  
9 the motion to dismiss, they will produce documents identified in the initial disclosures 30 days after  
10 the Court issues its order.

11 **B. Subjects and Timing of Discovery**

12 The parties have not taken any discovery to date and have agreed to stay all discovery  
13 until defendants' motion to dismiss has been ruled on by the Court. The parties anticipate that if the  
14 motion to dismiss is denied, there will be only limited discovery taken.

15 Plaintiffs have indicated they will seek to take the depositions of the Board members  
16 who voted on the resolution to phase-out the JROTC program. Defendants will oppose those  
17 depositions on the grounds that the individual reasons the Board members voted for or against the  
18 resolution are irrelevant to the resolution of the case and are protected under the legislative privilege  
19 doctrine. Therefore, defendants may file a motion for a protective order if or when plaintiffs notice  
20 those depositions.

21 Defendants do not anticipate taking discovery at this time although they may seek  
22 limited discovery concerning any claims plaintiffs make concerning damages or limited discovery to  
23 better understand the claims being made.

24 The parties agree to the following discovery deadlines, assuming the Court rules on the  
25 motion to dismiss by April 30, 2008. The parties reserve their right to propose alternative dates if  
26 resolution of the motion to dismiss takes longer than that.

- 27 1. Discovery maybe be conducted May 1 through August 30, 2008;
- 28 2. Discovery cut-off will be August 31, 2008;

1                   3.       Deadline to designate any expert witnesses: September 15, 2008;

2                   4.       Dispositive motions to be filed: November 3, 2008.

3                   The parties believe that because discovery will be limited, there is no need to conduct it  
4 in phases.

5       **C.       Disclosures or discovery of electronically stored information**

6                   SFUSD and the Board have taken steps to preserve electronic information that relates to  
7 the Board's resolutions concerning the JROTC program, and that is identified in defendants' initial  
8 disclosures.

9       **D.       Claims of privilege**

10                  If plaintiffs seek to depose members of the Board or evidence concerning the  
11 underlying reasons why Board members voted for or against the phase-out resolutions, defendants may  
12 seek a protective order from the court on the ground such information is irrelevant and is privileged by  
13 the legislative privilege doctrine.

14                  The parties agree that if either party inadvertently produces otherwise privileged  
15 material, the other party will not claim that the production itself waived the privilege.

16       **E.       Limitations of discovery**

17                  As set forth above, the parties have agreed to stay discovery until the Court rules on  
18 defendants' motion to dismiss. The parties do not anticipate the need for further restrictions on  
19 discovery at this time.

20       **F.       Any other orders**

21                  The parties have not agreed to any further orders with respect to discovery.  
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27  
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1 Dated: February 19, 2008

Respectfully submitted,

2 REMCHO, JOHANSEN & PURCELL, LLP

3  
4 By: \_\_\_\_\_/s/  
5 Thomas A. Willis

6 Attorneys for Respondents San Francisco Unified  
7 School District, San Francisco Board of Education,  
8 City and County of San Francisco, Eric Mar, Mark  
9 Sanchez, Jane Kim, Kim-Shree Maufas, Norman  
10 Yee, Jill Wynns, Hydra Mendoza, Carlos Garcia, Dan  
11 Kelly and Sara Lipson

12 By: \_\_\_\_\_/s/  
13 LeRue Grim

14 Attorney for Petitioners Andrea Esquivel, Brendon  
15 Ryan Villanueva, Kevin Mark Villanueva and  
16 Malcolm Wright

17 (00051267-3)

**SIGNATURE ATTESTATION**

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/s/) within this e-filed document.

Dated: February 19, 2008

/s/  
THOMAS A. WILLIS